



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
MONTANA STATE OFFICE
222 NORTH 32ND STREET
P.O. BOX 36800
BILLINGS, MONTANA 59107-6800



IN REPLY TO:
14-20-0252-4667
SDR 922-90-11
3165 (922.LB)

August 16, 1990

CERTIFIED-RETURN RECEIPT REQUESTED

DECISION

Mr. Jim Hawkins)	
Robert Hawkins, Inc.)	<u>SDR No. 922-90-11</u>
P.O. Box 285)	
Kevin, Montana 59454)	

Affirmed

Robert Hawkins, Inc., (Hawkins), requested a State Director Review (SDR) (Enclosure 1) of an assessment issued by the Miles City District Office (MCDO). The assessment was issued to Macum Energy, Inc., (Macum) for failure on Macum's part to comply with a written order of the authorized officer (AO).

On July 12, 1990, Macum was issued a Notice of Incidents of Noncompliance (INC) (Enclosure 2) ordering removal of oil from two pits located SE¼NW¼, sec. 6, T. 6 S., R. 36 E., Big Horn County, Montana, on Indian lease 14-20-0252-4667. Macum received the INC on July 17, 1990. The oil was to be removed from the pits within 5 days (abatement period) after receipt of the INC. On July 24, 1990, the inspector conducted a followup inspection and found that the oil had not been removed. Macum was then issued a second INC (Enclosure 3) ordering removal of the oil from the pits with another abatement period of 20 days. Macum was also issued an assessment of \$250 for failure to comply with a written order issued by the AO on July 12, 1990.

Hawkins is contesting the assessment because Hawkins recently purchased the lease (14-20-0252-4667) and has been waiting on the Bureau of Indian Affairs (BIA) to process Hawkins' operating rights assignment. Hawkins contends that Macum sent the INC to Hawkins, however, the abatement period was already past-due.

At the time that the violation was detected and the issuance of the second INC and assessment, Macum was the operator of the lease. The 43 CFR 3162.3(a) requires in part that, "Whenever a change in operator occurs, the AO shall be notified promptly in writing...." When the Bureau of Land Management (BLM) receives notification of change of operator, the BLM will forward it to the BIA for approval.

The records indicate that Macum is the operator, and is responsible for the lease until Hawkins is approved as the operator by the BIA. Therefore, we uphold the INC and the assessment issued by the MCDO.

This Decision may be appealed to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR 4.400 and the enclosed Form 1842-1 (Enclosure 4). If an appeal is taken, a Notice of Appeal must be filed in this office at the aforementioned address within 30 days from receipt of this Decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. The appellant has the burden of showing that the decision appealed from is in error.



Thomas P. Lonnie
Deputy State Director
Division of Mineral Resources

4 Enclosures

- 1-SDR dated August 6, 1990 (2 pp)
- 2-INC No. DH 314 (1 p)
- 3-INC No. 322 (1 p)
- 4-Form 1842-1 (1 p)

cc: (w/o encls.)
DM, Miles City